



15 MAY 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of
KAWASHIMA, Seiichiro et al.
Application No.: 10/594,994 : DECISION
PCT No.: PCT/JP05/06111 :
Int. Filing Date: 30 March 2005 : ON SUBMISSION UNDER
Priority Date: 31 March 2004 :
Attorney's Docket No.: 295483US0PCT : 37 CFR 1.42
For: Heterocyclic Compound And Anti-Malignant Agent
Containing The Same Active Ingredient

This communication is issued in response to applicants' submission on 17 January 2007 of a declaration executed on behalf of deceased co-inventor Seiichiro Kawashima by his heirs and legal representatives.

BACKGROUND

On 30 March 2005, applicant filed international application PCT/JP05/06111, claiming a priority date of 31 March 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 September 2006.

On 29 September 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied, *inter alia*, by the requisite basic national fee and the surcharge for late filing of the oath or declaration.

On 17 January 2007, to satisfy the requirements of 37 CFR 371(c)(4), applicants filed a declaration of the inventors. The declaration was signed by co-inventors, Yoshio Tsuchida, Kenichi Saitoh, Tetsuo Watanabe and, Mitsuko Kawashima, Hiroto Kawashima and Masato Kawashima as heirs and legal representatives for deceased co-inventor Seiichiro Kawashima.

DISCUSSION

When an inventor has deceased, 37 CFR 1.42 permits the legal representative (executor, administrator, etc.) of the deceased inventor to execute the necessary oath or declaration and, apply for and obtain a patent.

With respect to the legal representative, MPEP 409.01(a) states that where no legal representative has been appointed or is required to be appointed by law, the application for a patent may also be made by all of the heirs of the deceased. Further, MPEP 409.01(a) states that the heirs need to identify themselves as legal representative of the deceased inventor.

37 CFR 1.497(b)(2) states:

If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that (1) the person is a legal representative and the (2) citizenship, (3) residence and (4) mailing address of the legal representative.

A review of the declaration filed 17 January 2007 shows that Mitsuko Kawashima, Hiroto Kawashima and Masato Kawashima have executed the declaration as heir and legal representative for deceased co-inventor Shuji Takeuchi and have provided the statement required under item (1).

With regard to items (2)-(4), the residence, mailing address and citizenship of the persons signing on behalf of deceased co-inventor Seiichiro Kawashima have been provided. Also provided is the citizenship of deceased co-inventor Shuji Takeuchi.

The declaration filed 17 January 2007 is deemed acceptable under 37 CFR 1.497 (a)-(b).

CONCLUSION

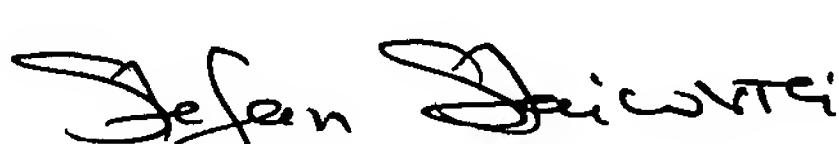
Applicants' declaration filed 17 January 2007 under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459



Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208